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Attorneys for Plaintiff Konami Gaming, Inc

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

KONAMI GAMING, INC., a Nevada
corporation,

Plaintiff,

v.

Marks Studios, LLC d/b/a Gimmie Games, a
Georgia limited liability company,

Defendant.

Marks Studios, LLC d/b/a Gimmie Games, a
Georgia limited liability company,

Counterclaim-Plaintiff,

v.

Case No.: 2:14-CV-01485-JAD-CWH

Honorable Jennifer A. Dorsey
Magistrate Judge Carl W. Hoffman

**STIPULATION AND [PROPOSED]
ORDER TO MODIFY SCHEDULING
ORDER (THIRD REQUEST)**

KONAMI GAMING, INC., a Nevada
corporation,

Counterclaim-Defendant.

**STIPULATION AND [PROPOSED] ORDER TO MODIFY
SCHEDULING ORDER (THIRD REQUEST)**

Pursuant to Local Rules 6-1 and 26-4, Plaintiff/Counterclaim-Defendant Konami Gaming, Inc. ("Konami" or "Plaintiff") and Defendant/Counterclaim-Plaintiff Marks Studios, LLC d/b/a Gimmie Games ("Marks Studios" or Defendant") hereby stipulate as follows:

WHEREAS, the parties to this action filed a proposed joint Discovery Plan and Scheduling Order (the "Scheduling Order") on December 30, 2014 (*Docket No. 24*);

WHEREAS, the Court approved the Scheduling Order on January 27, 2015 (*Docket No. 31*);

WHEREAS, pursuant to the Scheduling Order, discovery is partially stayed until the Court issues a *Markman* order on claim construction;

WHEREAS, the parties' first request to modify the Scheduling Order was on February 6, 2015 (*Docket No. 35*);

WHEREAS, the Court approved the proposed modification of the Scheduling Order on February 6, 2015 (*Docket No. 37*);

WHEREAS, the parties' second request to modify the Scheduling Order was on May 18, 2015 (*Docket No. 65*);

WHEREAS, the Court approved the proposed modification of the Scheduling Order on May 19, 2015 (*Docket No. 66*);

WHEREAS, on June 1, 2015, the parties informally extended the deadlines for: (1) Defendant to produce source code and operating documents for the ten additional games as

1 identified in the supplemental Asserted Claims and Infringement Contentions under Local Rule
2 16.1-9 to June 5, 2015; (2) Plaintiff to make its Disclosures of Asserted Claims and Infringement
3 Contentions under Local Rule 16.1-6 to June 10, 2015; (3) Defendant to make its Disclosure of
4 Non-Infringement, Invalidity and Unenforceability Contentions under Local Rule 16.1-8 to July
5 10, 2015; and (4) Plaintiff to serve its Response to Non-Infringement, Invalidity and
6 Unenforceability Contentions under Local Rule 16.1-10 to July 24, 2015.

7
8 **WHEREAS**, to date, the Plaintiff and Defendant have made their Initial Disclosures
9 pursuant to Federal Rule of Civil Procedure 26(a)(1), have filed the Stipulated Protective Order
10 required under Local Rule 16.1-4, Defendant has produced the source code and operating
11 documents for the ten additional games as identified in the supplemental Asserted Claims and
12 Infringement Contentions under Local Rule 16.1-9; Plaintiff has made its Disclosure of Asserted
13 Claims and Infringement Contentions required under Local Rule 16.1-6, and Defendant has made
14 its Disclosure of Non-Infringement, Invalidity and Unenforceability Contentions under Local Rule
15 16.1-8;

16
17 **WHEREAS**, Plaintiff's expert had to undergo emergency surgery, delaying Plaintiff's
18 preparation of its Response to Non-Infringement, Invalidity and Unenforceability Contentions;

19 **WHEREAS**, the parties have agreed to stipulate to a modification of the case schedule to
20 allow Plaintiff sufficient opportunity to work with its expert to prepare its Response to Non-
21 Infringement, Invalidity and Unenforceability Contentions;

22 **WHEREAS**, this is the parties' third request to modify the Scheduling Order;

IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned counsel for the named parties hereto, that the schedule in the Scheduling Order will be amended as follows:

Event	Basis	Proposed Date¹
Response to Non-Infringement, Invalidity and Unenforceability Contentions	LR 16.1-10	July 31, 2015
Exchange of Proposed Terms for Claim Construction	LR 16.1-13	August 10, 2015
Exchange of Preliminary Claim Construction and Extrinsic Evidence	LR 16.1-14	August 31, 2015
Parties to Meet and Confer regarding terms requiring construction and proposed meaning of the terms	LR 16.1-14	September 1-4, 2015
Joint Claim Construction Statement	LR 16.1-15	September 16, 2015
Opening Claim Construction Brief	LR 16.1-16	October 16, 2015
Responsive Claim Construction Brief	LR 16.1-16	October 30, 2015
Reply Claim Construction Brief	LR 16.1-16	November 6, 2015
<i>Markman</i> Hearing	N/A	To be Set By Court
Initial Expert Disclosures and Submission of Interim Status Report	N/A	November 23, 2015
Rebuttal Expert Exchange	N/A	December 22, 2015

IT IS FURTHER STIPULATED AND AGREED that nothing herein alters the obligations and requirements included in the Scheduling Order and that this Stipulation is made in good faith and not for the purpose of delay.

IT IS SO STIPULATED THROUGH COUNSEL OF RECORD,

¹ The proposed deadlines extend the prior deadlines by 7 days, with the exception of the deadline for Initial Expert Disclosures and Submission of Interim Status Report, which would be extended 8 days because the original deadline was on a Sunday.

1 Dated: July 23, 2015

By: /s/ Kimberly P. Stein
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2 Dated: July 23, 2015

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Attorneys for Defendant Marks Studios, LLC

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ORDER

PURSUANT TO THE STIPULATION, IT IS SO ORDERED:

DATED: July 29, 2015



Carl W. Hoffman
United States Magistrate Judge

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